

DOCUMENT RESUME

02650 - [A1052648]

[Procurement under the Foreign Military Sales Act]. B-188935.
June 6, 1977. 2 pp.

Decision re: Automation Industries, Inc.; by Paul G. Deabling,
General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).

Organization Concerned: Department of the Air Force; Radio Corp.
of America.

Authority: Foreign Military Sales Act, as amended (22 U.S.C.

2762 (Supp. V)). 31 U.S.C. 71. 31 U.S.C. 74. A.S.P.R.

5-1307. B-183670 (1976). B-181469 (1974). B-183686 (1975).

A company protested a noncompetitive contract awarded
to a competitor by the Department of the Air Force under a
foreign military sales requirement for the United Kingdom. Since
the protested award did not involve the use of appropriated
funds, a financial account supporting the award was not subject
to settlement by GAO. Therefore, the protest was not considered.
(Author/SC)

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J. [unclear]
P. [unclear]

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-188935

DATE: June 6, 1977

MATTER OF: Automation Industries, Inc.

DIGEST:

Since protested award of procurement under section 22(a) of Foreign Military Sales Act will not involve use of appropriated funds, financial account supporting award is not subject to settlement by GAO. Consequently, protest will not be considered.

This protest concerns a noncompetitive contract awarded to RCA Corporation by the Department of the Air Force for the United Kingdom under section 22(a) of the Foreign Military Sales Act, as amended, 22 U.S.C. § 2762 (Supp. V. 1975). In its report on the protest the Department has informed us that:

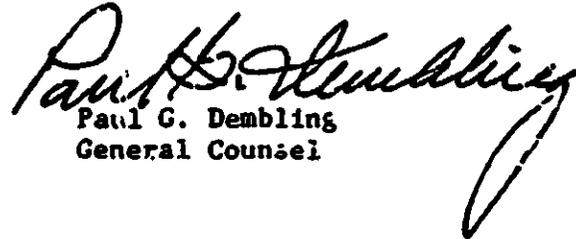
"The procurement is a foreign military sales requirement for the United Kingdom (UK). It was a sole source purchase in accordance with the UK request and the provisions of ASPR 6-1307. Funding is a direct cite to that Nation. Thus, customer money will reimburse the contractor and there will not be an expenditure of United States Government appropriated funds."

We have previously held that to the extent questioned procurements are made without appropriated funds under authority of the cited section of the act, our Office will not consider the protest involved. As we said in Tele-Dynamics-Division of AMBAC Industries, B-183070, January 29, 1976, 76-1 CPD 60:

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"Our bid protest jurisdiction is based upon our authority to adjust and settle accounts and to certify balances in the accounts of accountable officers under 31 U.S.C. 71, 74 (1970). Where we do not have such settlement authority over the account concerned [that is, where other than appropriated funds are involved], we have declined to consider protests * * *. See Equitable Trust Bank, B-18146, July 9, 1974, 74-2 CPD 14 and Relco, Inc., B-183686, May 5, 1975, 75-1 CPD 276."

Consequently, the protest will not be considered.


Paul G. Dembling
General Counsel